

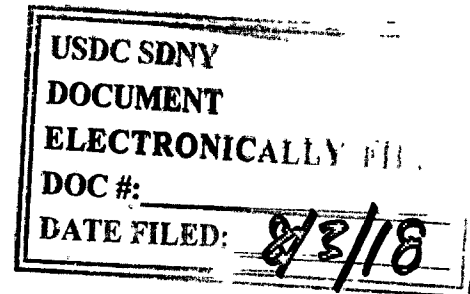
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re Novartis, Par and Endo Antitrust Litigation

Case No. 1:18-cv-04361-AKH

This Document Relates To:

1:18-cv-04361  
1:18-cv-05536  
1:18-cv-05603  
1:18-cv-05708  
1:18-cv-05886  
1:18-cv-06776



STIPULATION AND [PROPOSED] CASE MANAGEMENT ORDER

WHEREAS, on May 16, 2018, plaintiff Drogueria Betances, LLC filed a putative class action complaint on behalf of direct purchasers alleging, among other things, that defendants Novartis Pharmaceuticals Corporation, Novartis AG, Novartis Corporation, Endo Pharmaceuticals Inc., Par Pharmaceutical, Inc., Par Pharmaceuticals, Inc., and Par Pharmaceutical Industries, Inc. entered into an unlawful pay for delay agreement involving the pharmaceutical drug Exforge. Case No. 1:18-cv-04361-AKH (S.D.N.Y.) (the “Drogueria Betances Action”).

WHEREAS, on June 22, 2018, plaintiff Rochester Drug Co-Operative, Inc. filed a putative class action complaint on behalf of direct purchasers alleging substantially similar claims against Novartis Pharmaceuticals Corporation, Novartis AG, Novartis Corporation, Endo Pharmaceuticals Inc., Endo International PLC, and Par Pharmaceutical, Inc. Case No. 1:18-cv-05708-AKH (S.D.N.Y.) (the “Rochester Action”).

WHEREAS, on June 29, 2018, plaintiff FWK Holdings, LLC filed a putative class action complaint on behalf of direct purchasers alleging substantially similar claims against Novartis Pharmaceuticals Corporation, Novartis AG, Novartis Corporation, Endo Pharmaceuticals, Inc., Endo International PLC, and Par Pharmaceutical, Inc. Case No. 1:18-cv-05886-AKH (S.D.N.Y.) (the “FWK Action”).

WHEREAS, the Drogueria Betances Action, the Rochester Action, and the FWK Action are collectively referred to as the “Direct Purchaser Actions.”

WHEREAS, on June 19, 2018, plaintiff UFCW Local 1500 Welfare Fund filed a putative class action complaint on behalf of end-payor purchasers alleging substantially similar claims against Novartis Pharmaceuticals Corporation and Par Pharmaceutical, Inc. Case No. 1:18-cv-05536-AKH (S.D.N.Y.) (the “Local 1500 Action”).

WHEREAS, on June 20, 2018, plaintiff Law Enforcement Health Benefits, Inc. filed a putative class action complaint on behalf of end-payor purchasers alleging substantially similar claims against Novartis Pharmaceuticals Corporation, Novartis AG, Novartis Corporation, Endo Pharmaceuticals, Inc., Endo International PLC, and Par Pharmaceutical, Inc. Case No. 1:18-cv-05603-AKH (S.D.N.Y.) (the “LEHB Action”).

WHEREAS, on July 27, 2018, plaintiff Turlock Irrigation District filed a putative class action complaint on behalf of end-payor purchasers alleging substantially similar claims against Novartis Pharmaceuticals Corporation, Par Pharmaceutical, Inc., and Endo Pharmaceuticals, Inc. Case No. 1:18-cv-06776 (S.D.N.Y.) (the “Turlock Action”).

WHEREAS, the Local 1500 Action, the LEHB Action and the Turlock Action are collectively referred to as the “End-Payor Actions.”

WHEREAS, on July 17, 2018, plaintiffs in the Direct Purchaser Actions filed a Consolidated Amended Class Action Complaint (“Direct Purchaser CAC”) on behalf of a putative direct purchaser class against Novartis Pharmaceuticals Corporation, Novartis AG, Novartis Corporation, Endo Pharmaceuticals Inc., Endo International PLC, and Par Pharmaceutical, Inc.

WHEREAS, on July 17, 2018, plaintiffs in the Local 1500 Action and the LEHB Action filed a Consolidated Amended Complaint (“End-Payor CAC”) on behalf of a putative end-payor class against Novartis Pharmaceuticals Corporation, Par Pharmaceutical, Inc., and Endo Pharmaceuticals Inc.

WHEREAS, Drogueria Betances, LLC, Rochester Drug Co-Operative, Inc., and FWK Holdings, LLC are collectively referred to as “Direct Purchaser Plaintiffs.”

WHEREAS, UFCW Local 1500 Welfare Fund, Law Enforcement Health Benefits Inc., and Turlock Irrigation District are collectively referred to as “End-Payor Plaintiffs.”

WHEREAS, Direct Purchaser Plaintiffs and End-Payor Plaintiffs are collectively referred to as “Plaintiffs.”

WHEREAS, Novartis Pharmaceuticals Corporation, Novartis Corporation (together, “Novartis Defendants”), Endo Pharmaceuticals Inc., and Par Pharmaceutical, Inc. (together, “Par Defendants”) are collectively referred to as “Defendants.”

WHEREAS, Plaintiffs and Defendants are collectively referred to as the “Parties.”

WHEREAS, the Parties believe that consolidation of the Direct Purchaser Actions and End-Payor Actions, respectively, and coordination of the Direct Purchaser Actions and the End-Payor Actions under one docket, will promote efficiency in managing and litigating the cases.

WHEREAS, the Direct Purchaser Actions and the End-Payor Actions are collectively referred to as the “Coordinated Actions.”

WHEREAS, motions in the Direct Purchaser Actions and End-Payor Actions for Appointment of Lead Counsel are pending.

ACCORDINGLY, IT IS HEREBY STIPULATED AND ORDERED THAT:

**Consolidation and Coordination**

1. The Direct Purchaser Actions are hereby consolidated for all purposes pursuant to Fed. R. Civ. P. 42(a).
2. The End-Payor Actions are hereby consolidated for all purposes pursuant to Fed. R. Civ. P. 42(a). A response to the End-Payor CAC shall also constitute a response to the complaint filed in the Turlock Action, to which a separate response is not required.

3. Any additional direct or end-payor class action complaints filed in or transferred to this District containing substantially similar allegations as those in, and related to, the Coordinated Actions shall also be docketed under Docket No. 18-cv-04361 and deemed consolidated with either the Direct Purchaser Actions or End-Payor Actions, as applicable. Defendants need not respond to the complaint in any case that is consolidated with either the Direct Purchaser Actions or End-Payor Actions pursuant to this paragraph.

4. The Direct Purchaser Actions and the End-Payor Actions shall be coordinated for purposes of discovery and pretrial proceedings to the extent practicable.

5. The files of the Coordinated Actions shall be maintained in one file under Docket No. 18-cv-04361.

**Caption**

6. All documents filed in the Coordinated Actions shall bear the following caption:

In re Novartis, Par and Endo Antitrust Litigation
This Document Relates To:

Case No. 1:18-cv-04361-AKH

7. When a filing is intended to apply to all actions, the words “All Actions” shall appear immediately after the words “This Document Relates To:” in the caption set out above. When a filing is intended to apply only to one, or to some, but not all, of such actions, the party filing the document shall indicate the action(s) to which the document is intended to apply. The parties may indicate, for example, “All Direct Purchaser Actions” or “All End-Payor Actions.”

### **Class Counsel**

8. Garwin Gerstein & Fisher LLP shall serve as interim lead counsel in the Direct Purchaser Actions.

9. Labaton Sucharow LLP shall serve as interim lead counsel in the End-Payor Actions.

10. Respective Interim Lead counsel shall have authority over the following matters on behalf of the proposed direct purchaser class and all named plaintiffs in the consolidated direct purchaser class actions, and the proposed end-payor class and all named plaintiffs in the consolidated end-payor class actions, respectively: (a) convening meetings of counsel; (b) initiating, responding, scheduling, briefing, and arguing of all motions; (c) the scope, order, and conduct of all discovery proceedings; (d) such work assignments to other counsel as they may deem appropriate; (e) retaining experts; (f) designating which attorneys may appear at hearings and conferences with the Court; (g) the timing and substance of any settlement negotiations with the defendants (or potential defendants); (h) approving all financial expenditures; and (i) other matters concerning prosecuting or resolving these cases.

### **Scheduling**

11. The following schedule shall apply to the Coordinated Actions:

<b>Event</b>	<b>Date</b>
Deadline to agree upon a Protective Order and an ESI Protocol	August 31, 2018
Defendants file Motions to Dismiss or Answers to the Direct Purchaser CAC and End-Payor CAC	September 17, 2018
Parties exchange Initial Disclosures	September 17, 2018
Fact discovery opens	September 17, 2018

Event	Date
Parties must complete their production of information, documents and/or things by this date. Document productions will occur on a rolling basis. Privilege logs shall be produced on a rolling basis no later than 21 days after each individual production.	August 30, 2019
Direct Purchaser Plaintiffs and End-Payor Plaintiffs serve expert reports concerning class certification	October 14, 2019
Direct Purchaser Plaintiffs and End-Payor Plaintiffs file Motions for Class Certification	October 28, 2019
Defendants serve rebuttal expert reports concerning class certification	November 13, 2019
Defendants file briefs in opposition to Direct Purchaser Plaintiffs' and End-Payor Plaintiffs' Motions for Class Certification	November 27, 2019
Direct Purchaser Plaintiffs and End-Payor Plaintiffs file Reply briefs in further support of their Motions for Class Certification	December 16, 2019
Status Conference to schedule the remainder of discovery	TBD

### Depositions


12. Defendants make take depositions of named Plaintiffs in the Coordinated Actions concerning class certification issues. Direct Purchaser Plaintiffs and End-Payor Plaintiffs may collectively take an equivalent number of depositions concerning class certification issues.

### Interrogatories

13. Subject to the procedures and timing set forth in Local Civil Rule 33.3, Direct Purchaser Plaintiffs and End-Payor Plaintiffs may collectively serve 30 written interrogatories, including all discrete subparts, to Novartis Defendants (as a group) and 30 written interrogatories, including all discrete subparts, to Par Defendants (as a group). Novartis Defendants and Par Defendants collectively may propound 30 interrogatories to Direct Purchaser

Plaintiffs and 30 interrogatories to End-Payor Plaintiffs.

DATED: August 3, 2018

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Plaintiffs and 30 interrogatories to End-Payor Plaintiffs.

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**IT IS SO ORDERED.**

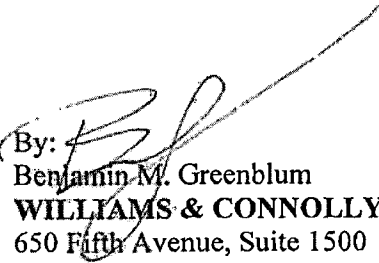
Dated: \_\_\_\_\_, 2018

By: \_\_\_\_\_  
Hon. Alvin K. Hellerstein  
United States District Judge

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**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2018

By: \_\_\_\_\_  
Hon. Alvin K. Hellerstein  
United States District Judge

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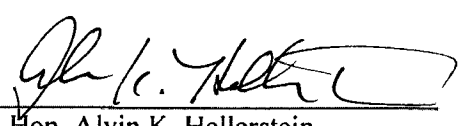
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**IT IS SO ORDERED.**

Dated: 8/3/18, 2018

By:   
Hon. Alvin K. Hellerstein  
United States District Judge